

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Richard S. Ginn  
Appl. No. : Not Yet Assigned  
Filing Date : Herewith (January 2, 2004)  
Title : Lung Assist Apparatus and Methods of Use  
Group Art Unit : 3738  
Previous Examiner : Bruce Edward Snow  
Docket No. : 704117.4009

MAIL STOP - DD  
Commissioner for Patents  
P.O. Box 1450  
Washington, DC 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. These items were previously cited in co-pending application serial no. 09/922,344 filed on August 3, 2001. Therefore, copies are not enclosed.

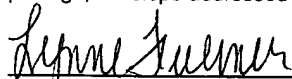
The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

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CERTIFICATE OF MAILING  
37 CFR §1.10

Date: January 2, 2004  
Express Mailing Label No.: EV 339737982 US

I hereby certify that on the dated listed above, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service in accordance with 37 C.F.R. § 1.10 as "Express Mail Post Office to Addressee," with sufficient postage, envelope addressed to: MAIL STOP DD, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.



LYNNE FULMER  
DOCSOC1:145907.1  
704117-4009 J2G

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**INFORMATION DISCLOSURE STATEMENT FILING PROVISION:**

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☒ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

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**STATEMENT UNDER 37 CFR § 1.97(e):**

☐ Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

**PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:**

☐ A check in the amount of \_\_\_\_\_ is enclosed for the above fee(s).


☐ Please charge \_\_\_\_\_ to Deposit Account No. **15-0665** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. **15-0665**.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: January 2, 2004

By:   
James W. Geriak  
Reg. No. 20,233

ORRICK, HERRINGTON & SUTCLIFFE LLP  
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<b>FORM PTO-1449</b>  <b>LIST OF PATENTS AND OTHER ITEMS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT</b>  <b>(Use several sheets if necessary)</b>	<b>ATTY. DOCKET NO.</b> 704117.4009	<b>SERIAL NO.</b> Not Yet Assigned
	<b>APPLICANT:</b> Richard S. Ginn	
	<b>FILING DATE:</b> Herewith (1/2/2004)	<b>PREVIOUS GROUP:</b> 3738

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE
		3,683,655	8/15/1972	White, et al.			
		3,757,783	9/11/1973	Alley			
		5,306,234	4/26/1994	Johnson			
		5,855,601	1/5/1999	Bessler, et al.			
		5,588,424	12/31/1996	Insler, et al.			
		5,588,992	12/31/1996	Scott, et al.			
		5,707,352	1/13/1998	Sekins, et al.			
		5,904,648	5/18/1999	Arndt, et al.			
		5,954,636	9/21/1999	Schwartz, et al.			
		6,003,517	12/21/1999	Sheffield, et al.			
		6,020,380	2/1/2000	Killian			
		6,027,525	2/22/2000	Suh, et al.			
		6,174,323 B1	1/16/2001	Biggs, et al.			
		6,258,100 B1	7/10/2001	Alferness, et al.			
		Published 2002/0112729 A1	08/22/2002	DeVore et al.			
		Published 2001/0052344 A1	12/20/2001	Doshi			
		Published 2001/0037808 A1	11/09/2001	Deem et al.			
		6,327,505 B1	12/04/2001	Medhkour et al.			

DOCSOC1:145906.1 704117-4009 J2GOC-89658.1 EXAMINER: Not yet assigned	<b>DATE CONSIDERED:</b>
EXAMINER: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant	

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FOREIGN PATENT DOCUMENTS								
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION YES NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)		
		Clifton A. Alferness, et al., EPO Publication No. EP 1 078 601 A2, "Lung Volume Reduction Apparatus", 2.28/2001.
		T. Sabanathan, PCT Publication No. WO 98/48706, "Occlusion Device", 11/5/1998.
		C. Danek, et al., PCT Publication No. WO 00/62699, "Modification of Airways by Application of Energy", 10/26/2000.
		Rodney A. Perkins, et al., PCT Publication No. WO 01/02042 A1, "Methods, Systems, and Kits for Lung Volume Reduction", 1/11/2001.
		Clifton A. Alferness, et al., PCT Publication No. WO 01/13839 Amendment, "Lung Reduction Device, System, and Method, 3/1/2001.
		Edward P. Ingenito, PCT Publication No. WO 01/13908 A2, "Tissue Volume Reduction", 3/1/2001.

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